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No. 04-1068

Supreme Court, U.S.
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# In The
# Supreme Court of the United States

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John Barth,
Petitioner and Plaintiff
v.
Town of Sanford, Maine and Inhabitants,
Daniel Casey, John Doe, Gene Carter, and David Cohen,
Respondents and Defendants

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On Petition for Writ of Certiorari
to the United States Court of Appeals for the First Circuit

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## REPLY BRIEF

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**Reply To Opposition Brief Of Respondent**

Respondent Town of Sanford has submitted a brief in opposition to the Petition for Writ Certiorari which merely states a single question of whether the court of appeals erred. It merely restates the many false allegations it made against the original complaint prior to its amendment, together with its wild perjuries and slanders against the plaintiff, the immaterial citations which it makes no effort to connect to the case, and several new perjuries. All this follows the respondent defendant's pattern of submitting barrages of lies, false quotations, slanders, equivocations, and deceptions in lieu of addressing in good faith the fact and argument before the court. Nearly all of its brief should be stricken as scandalous or immaterial: it well illustrates the very defects which the defendant pretends to find in the complaint.

The great number of slanders and perjuries requires that they be addressed in groups rather than considered individually. This serves to illustrate how the defendant might have responded to the original complaint. Plaintiff petitioner will not descend to the level of the defendant town, and responds only as needed to point out the falsehoods for the convenience of the court, sketching the counter argument.

**False Statements Which Slander the Plaintiff**

These false statements in the opposition brief are intended to create the illusion of unreasonable claims or beliefs of the plaintiff petitioner. But all of them were manufactured by the respondent defendant and cannot be substantiated. They were invented to provide a pretext for lower court judgment based upon prejudice rather than the evidence and argument. They are significant primarily in that they establish the malicious nature of the defendant.

The slander is made throughout (e.g. pp. 2,7,9,17) that plaintiff alleges a "grand conspiracy" and asserts "conspiracy theories" and "imagined connections" of "forces arrayed against him" such as a "murder conspiracy" by defendant town, by which it apparently refers to the hundreds of crimes committed by its officials, employees, and corporate members, the facts of which it has sought so single-mindedly to have stricken from the complaint, in lieu of any possible defense. It falsely describes itself as "various governmental officials" to conceal the fact that its officials are life-long small town cronies working in the same small building, and to create the illusion of broad scattered claims which are not present. These are of course lies. The facts of its hundreds of crimes are presented, but no conspiracy theory is advanced. The word "conspiracy" does not appear in the complaint.

The elements of conspiracy are communication with intent to violate law or adversely affect another by unlawful means. In the case of crime by an organization, conspiracy is implicit in the act. Defendant is an established organization which has solicited, facilitated, committed, protected, and ratified crimes and torts pursuant to its declared policy and intentions. No conspiracy theory is needed and none is advanced by the plaintiff. Respondent does not give any details of the conspiracy it sees in the facts it seeks to

suppress. These are clear examples of the "groundless slander" so hypocritically deplored by respondent.

The defendant town denies its massive guilt by the "big lie" method, hoping to persuade those unfamiliar with small low-income towns that such a long series of crimes against a charity by so many persons with no legitimate motive could not be true. But such situations are by all accounts common in small backwoods towns with significant numbers of ignorant, malicious, and hypocritical persons. Much of the life skill of such persons consists in finding opportunities to advance personal prejudices and grudges, and in public office they feel they have a prerogative to do so. The malice of the defendant is evident in these slanders, for the crimes and torts with which it is charged are supported by photographic and documentary evidence. So the "big lie" slander is a pretext offered in hope of a court prejudiced by the necessary claims against lower court judges.

The slander is made (p. 7) that plaintiff petitioner "has a long history in state and federal court in Maine of filing missives filled with baseless and scandalous accusation" by which the respondent can only be referring to this same set of defensive actions against its campaign of crime and tort. There are no other such actions. Not one of these actions involves a single "missive" but only standard pleadings. None of the pleadings contains a single false accusation. This is another malicious perjury made by this corrupt defendant to conceal its criminal activity by attacking its victim..

The slander is made (p. 16) that plaintiff petitioner makes a "wholesale indictment of the body politic." More slander and perjury: defendant knows this to be false. The plaintiff has always sought and maintains congenial relations with the civilized segment of the community. The case title names the Inhabitants of the town because it is "sued in its dual capacity as a private corporation owning property in common for the benefit of its members" as clearly stated under Parties, rather than in its government capacity in which

it sought tort claims immunity. It is this capacity which as a matter of law makes the town answerable by *respondeat superior* for acts of its corporate members in furtherance of its declared non-governmental policies and clear intentions. This slander and many others have been widely promoted by the defendant to recruit its population against the School.

The slander is made (p. 9) that plaintiff petitioner posits an "imagined connection" between defendant town counsel and defendant magistrate, who dismissed the prior case on the absurd pretext of res judicata. The connection is actually *admitted* by defendant counsel, but only after his slander, and only after being proven by plaintiff with documentary evidence. Counsel's then wife was an *employee* of the defendant magistrate, who also had substantial private financial transactions with attorneys through his own wife's real estate deals. Collusion was already clear when Plaintiff petitioner raised the conflict of interest issue.

The slander is made throughout (e.g. pp. 4,7,9,13,15) that plaintiff alleges "scandalous matter." Neither the defendant nor the magistrate could find an example of this. Instead they claim absurdly that the *criminal and civil claims* against the defendants are mere scandalous allegations to be stricken, knowing that by definition these are not scandalous matter and *cannot lawfully be stricken* per Rule 8(e)(2). This slander is made to rationalize the extensive smear campaign which defendant town has conducted against the plaintiff.

In the few instances noted which are not the claims themselves, an intruder of "sleazy and cynical demeanour" was accurately described and never identified, hence this is not scandal. The U.S. Census Bureau description of the town's undereducated population and high crime rate is not scandal. The town does in fact have a "long history of maintaining a public enemy as a focus of hatreds." That may be scandalous but is not attributable to the plaintiff.

The slander is made (pp. 4,19) that plaintiff petitioner has made "rambling allegations." The defendant has never

found an example of this. The facts are presented in absolutely strict chronological order within subject groupings. This slander is another quotation from immaterial cases, to create the illusion of precedent.

**Other False Statements From The Proceedings**

The perjury is made throughout (pp. 3,4,10,13) that Plaintiff "refused to follow" the district court order to abbreviate the complaint. As detailed in the objection and appeal, even the magistrate admitted that plaintiff had made every specific change requested, and had also significantly reduced the size of the complaint. The claim by defendant and the magistrate that plaintiff "essentially ignored" the order is extravagantly preposterous. The plaintiff, who has spent over twenty years founding the School and seven years defending it against crime and corruption, obviously made every effort within his ability to defend it from imminent destruction. This perjury was intended to provide a pretext for dismissal based purely upon the proscribed influences detailed in the petition.

The false claim is made (pp. 4,5,13) that the Amended Complaint violates the F.R.Civ.P. Rule 8(a) requirement that a complaint "shall *contain*... (2) a short and plain statement" of each claim (emphasis added), which it does in fact contain in the Counts section by standard practice. There is no restriction on additional material, and the same rule at 8(e) specifically prohibits limitation of the claims, arguments, and defenses. No other F.R.Civ.P. rule limits the length of original pleadings, and even normally shorter appeal briefs are allowed to reach 50 pages. There is simply no basis in the rules for the restrictions claimed by defendant and magistrate. The defendant falsely argues that the Rule 8 requirement of conciseness implies a length limit. All of these arguments of defendant and magistrate are obviously false.

Neither can verbosity or redundancy be inferred from length of pleadings. Length of pleadings depends primarily upon the number of offenses and complexity of law, and factors such as concealment, crime by an organization, or many incidents together comprising a crime or tort, all of which factors are present in this case. Some redundancy is inherent in more complex cases where it is necessary to make summary references to other related evidence and argument. Further, the lower courts have shown incapacity to remember the facts or connect the arguments without some reminders. These are the inherent characteristics of more complex cases.

The Plaintiff nowhere argues that "he should not be bound by the limitations of Rule 8" as falsely claimed by respondent. It is the respondent defendant who seeks to violate Rule 8, to create a false argument for demanding the deletion of the evidence and argument of its hundreds of crimes, which is in fact specifically prohibited by rule 8.

The court is already aware that federal precedents establish the requirement for at least a "minimum factual basis" for allegations of civil rights violations, that opportunities to present such fact after the original pleadings have been denied, and that absence thereof has been cited as a ground for dismissal. Consequently the magistrate preference for minimal "notice pleading" is not applicable here, and the defendant and magistrate strategy of demanding the deletion of essential fact has the intent of rendering the complaint insufficient. In fact, the magistrate was so inept as to assert in conclusion that insufficient evidence was a basis for dismissal, after arguing only that more fact should have been deleted.

The false claim is made (p.12) that line spacing was condensed "rather than reducing verbosity." In fact the same defendant had made the perjury that the obviously double-spaced complaint was somehow single-spaced, and the magistrate caught the lie, remarking that single-spacing was acceptable anyway. *Only after* making *every* change ordered by the court, and by great effort reducing the remaining text

size *almost 20 percent* despite the *absence of verbosity*, the plaintiff switched to one and one-half spacing to get the page count well below 30 *as well as* the word count below 14,000 because *specifically permitted* by the court. Obviously this was not in lieu of making the changes, nor contrary to order.

The perjury is made (pp. 12, 13) that Amended Complaint paragraphs are not numbered per Rule 10(b). In fact, all fact averment paragraphs are numbered per Rule 10(b). The "unnumbered paragraphs" which so aggrieve the defendant are not normally numbered, because they have standard names (e.g. Jurisdiction) and do not require a defendant answer. There is no paragraph in the complaint which cannot be easily designated by name or number.

The perjury is made (p. 8) that the Amended Complaint is "not divided into discrete paragraphs" yet has "lengthy paragraphs." The Amended Complaint is neatly divided into distinct paragraphs which present only one set of related averments, such as a defendant gang attack or arson attack on the School, or a police assault on the plaintiff, in strictly chronological order within subject groupings. When such matter is extensive it is divided appropriately into several paragraphs. This is fully compliant with 10(b). Defendants were encouraged to commit fewer crimes to reduce the burden of reading about them. So long as their spurious arguments are credited, their crime will continue.

The perjury is made (p.14) of "superfluous historical allegations" in the complaint. Here is another claim of which no example has been found, which has not stopped the defendant from elaborating on the perjury, even making false document references to the mysterious "historical development of Nasson College," an institution not even mentioned in the complaint except as the former occupant of the Springvale School campus. This is just more perjury.

The ludicrous claim is made (p. 17) that the slender 27-page double-spaced Amended Complaint is a "lengthy tome." It is in fact a model of concise writing, presenting

literally hundreds of facts about hundreds of crimes in a thin document a fraction of the size of a magazine, and is far shorter per claim or fact than any pleading of respondent.

A tome is at least ten times the word count of an average book, usually a thick encyclopaedic volume of large thin pages and fine print. In contrast the Amended Complaint is less than one tenth the word count of an average book, hence less than one percent of the size of a tome. Abuse of office by the lower courts has encouraged the defendant counsel to pursue this practice of wild exaggerations upon a foundation of perjuries, which could fool no one in possession of the facts, and are intended solely as pretexts.

The false citation is made (p.11) of *Kuehl v. FDIC* where an amended complaint did *not* delete material stricken by order, did *not* reduce the page count as ordered, did *not* change to double spacing as ordered, and *was* verbose and redundant. It does not seem to matter to the defendant that there is no connection between its citations and the facts of *this* case. It merely uses them as a source of ideas for false statements to create the illusion of a precedent.

False citations are made (p. 18) of other historical instances of lengthy or disorganized pleadings which have no relationship with the present case. This is a standard deception for this defendant, offered in lieu of any defense. Defendant has many times actually quoted these cases pretending to be quoting the Amended Complaint, and alleges every fault ever found in any federal complaint, without bothering to find such a fault in *this* case.

The false claim is made (p. 4) that defendant counsel "faced an impossible task" in answering the complaint. An honest attorney would find the difficulty unremarkable. The F.R.Civ.P. avoid excessive defendant burden by providing for summary answers or denials of groups of claims, or assertions of insufficient knowledge. The task is impossible only in that the defendant is massively guilty and has no defense.

Throughout its brief (e.g., p. 7) the respondent town slanders Springvale School, whose 63,000 square feet of modern school buildings it has sought to seize or destroy by every means, as "existing only in the imagination" or "does not exist." Despite the hundreds of documented town efforts to destroy the School by unlawful seizure efforts, unlawful taxation, unlawful revocation of permits, a half-dozen arson attacks, completely sacking and ruining the buildings in four separate raids by its vandalism gangs protected to this day by its police, direct and covert armed assault, and attempted murder, despite even the three attacks on the School's front fence and gate by town trucks already made *during pendency of this petition*, this supposedly nonexistent school, whose campus is three times the size of the town's apparently existent school next door, continues to exist physically, legally, and in its officers. This transparent ploy clearly shows the continuing violent and malicious intent of the town to destroy this private school before it gets any farther.

The deceptive claim is made (p.15) of allegations in the Amended Complaint of events beyond the statute of limitations. None of these are cited by defendant, and those in the original complaint are entirely material. In any case only claims are precluded by such statutes, not the citation of facts. The false claim is made (p. 17) that the "factual backgrounds" of prior cases are improper pleading. This is simply another deception. Because these are *continuing torts* the facts of prior related crime and tort are both directly and indirectly material. The defendant sought to suppress this material fact to reduce the overwhelming evidence of its guilt.

**New False Statements in the Opposition Brief**

The preposterous claim is made (p. 2) that the Fifth Amendment clause involved is the unrelated clause against self-incrimination, despite the clear citations in the Complaint

and Memorandum of Law of the material clause "nor shall private property be taken for public use without just compensation." Another deception to make the complaint seem unreasonable, when in fact it is entirely reasonable.

The false claim is made (pp. 2,9) that voluntary dismissal of the corrupt judge and magistrate was to avoid recusal to New Hampshire, when in fact the district court had announced via the clerk *before the case was even read* that it would be dismissed "anyway," and as stated, dismissal of the judicial defendants was to avoid dismissal of the case. Clearly defendant cannot claim to know the cause better than plaintiff. Plaintiff would be pleased to try the case in New Hampshire, although its state supreme court is also being investigated for corruption of similar kinds.

The false claim is made (pp. 2,3) that petitioner did not contact respondent concerning the contents of the appendix and did not serve another copy of Appendix J (the Amended Complaint). In fact this was discussed with respondent counsel by telephone at its own election. Respondent stated that it did not need another copy of the complaint. It was served anyway. The claim is made that the Appendix should have included the original complaint. But this is not the subject of any question presented for review, cannot possibly be the basis of any argument for dismissal of the Amended Complaint, and respondent's many references to it only establish that it knows that its claims do not even apply to the Amended Complaint, and are immaterial.

The false and absurd claim is made (p. 7) of "unlawful representation" of Springvale School by the plaintiff. Defendant knows that the school is not now even a party, but may be joined as stated under Parties, and would then have representation as a corporation. This is an established tactic of defendant to deny process by forcing unsupportable costs upon the citizen classes it victimizes. It also regularly engages in attorney collusion, and knows that such representation would extend its opportunities for corrupt influence.

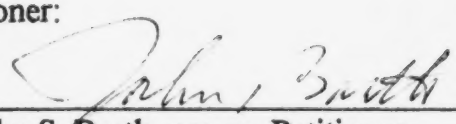
Respondent defendant tells the fairy tale (p. 20) of the helpful magistrate, who allegedly expended such great humanitarian efforts to help the plaintiff cure nonexistent defects of pleading insanely alleged by the defendant, despite having announced that the case was to be dismissed even before reading it, and was forced against all better inclinations to demand dismissal of charges of numerous felony crimes against a charity, even before plaintiff had complied with the order, because the plaintiff could not be required to delete the charges themselves as mere scandalous matter, nor to delete facts essential to the complaint in the interest of mere brevity. This refusal of the plaintiff to cooperate with corruption was the alleged cause of grievous inconvenience to organized criminals in having to read one word for each orphan threatened with destruction by their crimes. One can hardly imagine a more hypocritical and perverse fairy tale, but defendant manufactures them easily. It was offered as pretext in hope of a decision based solely upon proscribed influences.

The false statement is made (p. 20) that the claims against defendant town of violation of constitutional rights are somehow based upon the abuse of judicial discretion, strangely denying the existence of the hundreds of facts of its hundreds of crimes and violations of constitutional rights, whose very number and volume is the sole basis of its objection to the complaint. Another deliberate deception.

**Conclusion**

The respondent town's brief in opposition to the Petition for Writ of Certiorari is no more than an excuse for slanders and deceptions. It fails to address the very significant questions presented for review, and merely assists in establishing the malicious and dishonest nature of this defendant.

For Petitioner:



John S. Barth, pro se, Petitioner
Dated this 17th day of March, 2005